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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,412	07/23/2003	John W. Norris III	AP35346-067834.0361	8142
21003 7590 01/29/2008 BAKER BOTTS L.L.P. 30 ROCKEFELLER PLAZA 44TH FLOOR NEW YORK, NY 10112-4498			EXAMINER SHANG, ANNAN Q	
			ART UNIT 2623	PAPER NUMBER
			NOTIFICATION DATE 01/29/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DLNYDOCKET@BAKERBOTTS.COM

# Office Action Summary

Application No.

10/625,412

Applicant(s)

NORRIS, JOHN W.

Examiner

Annan Q. Shang

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/19/07 has been entered.

### *Response to Arguments*

2. Applicant's arguments with respect to claims 1-11 and 13-17 have been considered but are moot in view of the new ground(s) of rejection.

With respect to claims 1-11 and 13-17 rejected under 35 U.S.C. 103(a) as being unpatentable over **McKenna et al (2003/0005449)** and in view of **Herz et al (6,088,722)**, Applicant amends claims and further argues that the prior arts of record do not teach the amended claims limitation (see page 9+ of Applicant's Remarks).

In response, Examiner disagrees. Examiner notes Applicant's arguments, however, McKenna discloses a distribution system 10 with a home base 12 which tracks the history of each site 18 to collect data and customizes schedule of services at anytime and delivers different digital entertainment content (DEC), to each site based on the history or survey or depending upon its (Site 18) needs (page 2, [0015-0018] and [0028]). Furthermore, McKenna teaches that various guests, are first presented with an

interactive schedule of services, containing textual or visual alerts and based on the responds received (history or survey), the DEC is updated accordingly and at anytime (page 4, [0033]) to deliver the customized services to each site (page 3, [0028], [0030-0031]). In addition to polling of Sites information to customized content based on its needs, McKenna further refers to application **09/724,289 (Banker et al Pat. No. 7272844)** for further description of the distribution system where Banker uses surveys, opinion polls, etc., to provide various interactive services to guest in hotels (figs.1-3 and col.2, line 36-col.4, line 12). McKenna is silent as to where the history or surveys, comprises question(s) to the user. However, in the same field of endeavor, this deficiency is disclosed in **Herz** (see figures 1-10), where Herz discloses a system and method for scheduling broadcast of and access to video programs and other data using customer profile(s), where profile(s) are generated from a survey of a plurality of questions to fill out and uses the profile(s) to target or customize content to user(s) in households or localities (groups) such as hotels (col.35, lines 6-16, col.39, lines 5-16, col.50, lines 22-28 and line 48-col.51, line 25), ), as such combining the teaching of **Herz** with **McKenna** would be within the knowledge of one of ordinary skill in the art, and the motivation being to customize or target content to user(s) in household(s), groups or localities. Hence the amended claims do not overcome the prior art of records as discussed below in the office action.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 and 13-17 are rejected under 35 U.S.C. 103(a), as being unpatentable over **McKenna et al (2003/0005449)** in view of **Herz et al (6,088,722)**.

As to claims 1-4, note the **McKenna** reference figure 1, discloses system and method for content delivery to lodging entertainment systems and further discloses a method and system for conducting a first guest survey (History of Hotel/Site 18-1) of a guest using a first interactive item selection system (interactive menu or schedule) displayed on a viewing surface of a first television (Guest Terminal or TV-54 of Hotel/Site 18-1) in a guest room of a first hotel or motel entity, and for conducting a second guest survey (History of Hotel/Site 18-N) of a guest using a second interactive item selection system displayed on a viewing surface of a second television in a guest room of a second hotel or motel entity (TV-54 of Hotel or Site 18-N), comprising the steps of:

means for receiving or generating the first guest survey (Hotel/Site 18-1 generates a history or survey stored in Digital Content Receiver 'DCR' 44, page 2, [0018] and transmits to Home Base or Corporate Headquarters of digital entertainment Content system Vendor 'CH-DEC-Vendor' 12 'a central web server' or Uplink-Server/DMZ-34/40 of Uplink 14 'Uplink-14', which is coupled to System Sever 22 for

storing the history or survey, page 1, [0015-0018], and based on the history or survey, CH-DEC-Vendor 12 customizes schedule of services to each Hotel/Site 18N, page 3, [0026] and [0028-0030]) where the first guest survey is associated with at least one of a product (On-demand movies, Internet access, interactive video games, interactive services, etc., page 3, [0029-0030]) offered by a first entity (Hotel/Site 18-1) to a user (Guest) of the first interactive item selection system and a service performed by the first entity for the user of the first interactive item selection system (interactive menu or schedule system presented to guest by various remote Hotel/Site 18 or Processors in different geographical locations), note that CH-DEC-Vender 12 is a web server, coupled to remote Hotel/Site 18N and provides also web videos to various Hotel/Sites (page 4, [0034]);

receiving or generating the second guest survey (History of Hotel/Site 18-N) where the second is associated with at least one of a product offered by a second entity (Hotel/Site 18-N) to a user (Guest) of the second item selection system and a service performed by the second entity for the user of the second interactive item selection system, where the first and the second entity are separate entities (page 1, [0015-0016]), note that each Hotel/Site 18-1 to 18-N are located in many sites in different geographic locations;

storing (CH-DEC-Vendor 12 or Uplink-Server/DMZ-34/40 of Uplink-14, page 2, [0016-0018] and page 3, [0031-0032] the first and the second survey;

displaying (Hotel/Site 18N or Processor is configured to display on Guest Terminal or TV-54) a particular item (PPV, On-demand movies, internet access and

other interactive services, page 3, [0029-0032]) of the first interactive item selection system on the viewing surface of the first television (Guest TV of Hotel/Site 18-1), where the particular item is associated with the first survey; displaying a further item of the second interactive item selection system of the viewing surface of the second television (Guest TV of Hotel/Site 18-N) where the further item is associated with the second survey; receiving an electronic request (Guest of Hotel/Site 18-1 interacts to purchase or order the interactive service, using a series of interactive display menus, page 3, [0029-0031]) for the first survey when the user of the first interactive item selection system selects the particular item;

receiving an electronic request (Guest of Hotel/Site 18-N interacts to purchase or order the interactive service, using a series of interactive display menus, page 3, [0029-0031]) for the second survey when the user of the second interactive item selection system selects the further item;

displaying at least one portion of the first survey (Customized Schedule files, page 3, [0028-0030] for Hotel/Site 18-1) on the viewing surface of the first television after receiving the electronic request for the first survey; displaying at least one portion of the second survey (Customized Schedule files, page 3, [0028-0030] for Hotel/Site 18-N) on the viewing surface of the second television after receiving the electronic request for the second survey, note that the CH-DEC-Vendor or Uplink-Server/DMZ-34/40 of Uplink-14 transmits the customized schedule files to each Hotel/Site 18 and the Guest interacts with the customized schedule files to order or purchase a particular interactive service;

receiving (CH-DEC-Vendor 12 or Uplink-14, page 3, [0029-0032]) an electronic response to the first survey from the user of the first interactive item selection system (Hotel/Site 18-1); receiving an electronic response to the second survey from the user of the second interactive item selection system; and storing (CH-DEC-Vendor 12 or Uplink Server/DMZ-34/40 of Uplink 14) the response to the first survey and the response to the second survey of in a particular database (Server 22 of CH-DEC-Vendor 12 or Uplink Server/DMZ-34/40 of Uplink 14, page 2, [0020-0023], note that CH-DEC-Vendor or Uplink-14 continuously checks the list to determine if any changes have been made to the list and response to the change of each specific Hotel/Site 18-1 to N and their Guest and attaches sites file to each DEC file in response to the interactive services to the various Guest within each Hotel/Site (page 2, [0022-0023]; page 3, [0028-003] and [0032-0033]).

In addition to monitoring guest(s) and hotel(s) to customized content to various sites based upon its needs, McKenna further refers to application 09/724,289 (Bankers et al Pat. No. 7272844), where Banker discloses a hotel distribution system which uses surveys, opinion polls, etc., to provide various interactive services to guest in hotels (figs.1-3 and col.2, line 36-col.4, line 12)

McKenna fails to explicitly teach where the surveys, comprises question(s) to the user.

However, note the Herz reference figures 1-10, discloses a system and method for scheduling broadcast of and access to video programs and other data using customer profiles where the survey includes a plurality of questions to fill out to



generate a profile of user(s) and customizes content to user(s), groups and localities including hotels (col.35, lines 6-16, col.39, lines 5-16, col.50, lines 22-28 and line 48-col.51, line 25).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of McKenna to properly generate customer(s) profile and provide desired or targeted multimedia programs to the customer(s) or group of customers with similar taste or to customize or target content to user(s) in a household or localities.

As to claim 5, McKenna further discloses transmitting the first survey from the central web server (CH-DEC-Vendor 12) to the first processor (Hotel/Site 18-1) in a Hypertext Mark-up Language format, and where the step of transmitting the second survey from the central web server to the second processor includes the step of transmitting the second survey in the Hypertext Mark-up Language format (page 3, [0029] and page 3, [0034]).

As to claims 6 and 7, McKenna further discloses transmitting a particular message to a representative of the first entity or the second entity (Hotel/Site 18-1 to N) when at least one portion of the electronic response to the first survey corresponds to a particular predetermined response (page 3, [0031]).

As to claim 8, McKenna further discloses where the central web server (CH-DEC-Vendor 12) includes a first database (System Server 22), and a second database (Uplink Server/DMZ-34/40) located remote from the central web server and the processor (Hotel/Site 18N, page 1, [0015-0018]).

Claim 9 is met as previously discussed with respect to claim 1.

As to claims 10, the claimed "a system for conducting a survey using an interactive item selection system..." is composed of the same structural elements of previously rejected claim 1.

Claim 11 is met as previously discussed with respect to claim 1.

As to claim 13, McKenna further discloses a system comprising at least one server (Uplink Server/DMZ-34/40 of Uplink 14), which is coupled to CH-DEC-Vendor 12 and Hotel/Site 18N, such that CH-DEC-Vendor 12 is coupled to Hotel/Site 18N via Uplink Server/DMZ-34/40 of Uplink 14 (fig. 1 and page 1, [0015-0018]).

As to claim 14, McKenna further discloses where Hotel/Site 18N is located remote from the Guest TV-54 via Network 52 (page 2, [0018]).

Claim 15 is met as previously discussed with respect to claim 5.

Claim 16 is met as previously discussed with respect to claim 6.

As to claim 17, the claimed "a system for conducting a survey using an interactive item selection system..." is composed of the same structural elements of previously rejected claim 1.

### ***Conclusion***

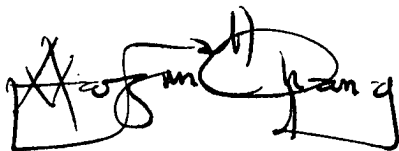
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bankers et al (7,272,844) disclose lodging entertainment system with guest-selected time-shifting.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA)** or **571-272-1000**.

A handwritten signature in black ink, appearing to read 'Annan Q. Shang', enclosed within a rectangular box.

**Annan Q. Shang**